

#### **§ 440.350**

coverage shall be in accordance with § 440.347(d);

(8) Laboratory services;

(9) Preventive and wellness services and chronic disease management; and

(10) Pediatric services, including oral and vision care, in accordance with section 1905(r) of the Act.

(b) Alternative Benefit Plans must include essential health benefits in one of the state options for establishing essential health benefits described in 45 CFR 156.100, subject to supplementation under 45 CFR 156.110(b) and substitution as permitted under 45 CFR 156.115(b).

(c) States may select more than one base benchmark option for establishing essential health benefits in keeping with the flexibility for States to implement more than one Alternative Benefit Plan for targeted populations.

(d) To comply with paragraph (a) of this section, Alternative Benefit Plan coverage of habilitative services and devices will be based on the habilitative services and devices that are in the applicable base benchmark plan. If habilitative services and devices are not in the applicable base benchmark plan, the state will define habilitative services and devices required as essential health benefits using the methodology set forth in 45 CFR 156.115(a)(5).

(e) Essential health benefits cannot be based on a benefit design or implementation of a benefit design that discriminates based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life or other health conditions.

[77 FR 42306, July 15, 2012]

EFFECTIVE DATE NOTE: At 78 FR 42306, July 15, 2013, § 440.347 was added, effective January 1, 2014.

#### **§ 440.350 Employer-sponsored insurance health plans.**

(a) A State may provide benchmark or benchmark-equivalent coverage by obtaining employer sponsored health plans (either alone or with additional services covered separately under Medicaid) for individuals with access to private health insurance.

(b) The State must assure that employer sponsored plans meet the re-

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quirements of benchmark or benchmark-equivalent coverage, including the economy and efficiency requirements at § 440.370.

(c) A State may provide benchmark or benchmark-equivalent coverage through a combination of employer sponsored health plans and additional benefit coverage provided by the State that wraps around the employer sponsored health plan which, in the aggregate, results in benchmark or benchmark-equivalent level of coverage for those individuals.

#### **§ 440.355 Payment of premiums.**

Payment of premiums by the State, net of beneficiary contributions, to obtain benchmark or benchmark-equivalent benefit coverage on behalf of beneficiaries under this section will be treated as medical assistance under section 1905(a) of the Act.

#### **§ 440.360 State plan requirement for providing additional services.**

In addition to the requirements of § 440.345 the State may elect to provide additional coverage to individuals enrolled in benchmark or benchmark-equivalent plans. The State plan must describe the populations covered and the payment methodology for these services. Additional services must be in categories that are within the scope of the benchmark coverage, or are described in section 1905(a) of the Act.

EFFECTIVE DATE NOTE: At 78 FR 42307, July 15, 2013, § 440.360 was revised, effective Jan. 1, 2014. For the convenience of the user, the revised text is set forth as follows:

#### **§ 440.360 State plan requirements for providing additional services.**

In addition to the requirements of § 440.345, the State may elect to provide additional coverage to individuals enrolled in Alternative Benefit Plans, except that the coverage for individuals eligible only through section 1902(a)(10)(A)(i)(VIII) of the Act is limited to benchmark or benchmark-equivalent coverage. The State must describe the populations covered and the payment methodology for these benefits. Additional benefits must be benefits of the type, which are covered in 1 or more of the standard benchmark coverage packages described in § 440.330(a) through (c) or State plan benefits including those described in sections 1905(a), 1915(i), 1915(j), 1915(k) and 1945 of the Act and